

REMARKS/ARGUMENTS

Claims 1-54 stand rejected in the outstanding Official Action. Claims 1, 6-8, 19, 24-26, 37 and 42-44 have been amended and newly written claims 55-57 offered for consideration. Therefore, claims 1-57 are the only claims remaining in this application.

The Examiner's acceptance of Applicants' previously submitted formal drawings is very much appreciated. Additionally, the Examiner's agreement that the previously cited Kouznetsov reference (U.S. Patent 6,029,256) is not available as a reference is appreciated.

Claims 1, 15, 19, 33, 37 and 51 stand rejected under 35 USC §102(b) as anticipated by Chi (U.S. Patent 6,006,329). The Chi patent appears to relate to virus scanning within data that can span multiple data streams. There appears to be no disclosure of any audit data generating logic as set out in applicant's claims.

However, as reported by the Examiner at page 3, lines 7-10, "the virus detection method is interpreted as audit data generator logic and the reported virus signatures interpreted as audit data identifying said computer program infected by the respective virus." Thus, the Examiner is apparently construing "audit data generator logic" and "audit data" so broadly as to encompass virus detection and virus signature as reported in the Chi reference.

While Applicants believe that the Examiner's interpretation is a very strained interpretation, Applicants have amended independent claims 1, 19 and 37 to indicate that the two aspects - virus scanning logic and audit data generator logic - are completely separate operations. The virus scanning logic is responsive to a virus scan request and performs a computer virus scan and generates a virus scan result. The audit data generator logic is triggered by the computer virus scanner logic and is responsive to data identifying the computer file to be scanned. The

audit data generator logic identifies a request to execute a computer program and in response to identification of the request for generating audit data identifying the computer program.

Applicants believe that the above amendments to independent claims 1, 19 and 37 clarify that the audit data generator logic and the audit data are not and cannot be construed to encompass the virus detection and virus signatures reported in the Chi reference. The fact that these independent claims separately specify the virus scanning and scan result generation apart from the audit data generation and audit data should make it clear that the audit data generator recitation in the independent claims does not and cannot encompass the virus scanner logic as set out in the Chi reference.

As a result of the above clarification, it is clear that the independent claims 1, 19 and 37 and claims dependent thereon are not anticipated by the Chi reference, as Chi contains no audit data generator logic or audit data as recited in Applicants' independent claim 1. Should the Examiner believe that Chi does disclose such structure, he is respectfully requested to identify precisely where the Chi reference discloses each of the claim 1 recitations, i.e., "computer virus scanner logic" including "data identifying a computer file," "audit data generator logic" and "audit data," as each of these four separate items is recited as separate and distinct portions of Applicants' independent claims. Absent any specific teaching in the Chi reference, of course, is indicative that the independent claims cannot be anticipated by Chi.

Claims 2-5, 11, 12, 20-23, 29, 30, 38-41, 47 and 48 stand rejected under 35 USC §103 as unpatentable over Chi in view of Chambers (U.S. Patent 5,398,196). Inasmuch as these claims ultimately depend from independent claims 1, 19 and 37, the above comments distinguishing these claims from the Chi reference are herein incorporated by reference. The Examiner admits

that “Chi does not teach a file access request to an operating system triggers generation of said computer virus scan request” and this admission is very much appreciated.

It is noted that nowhere does the Examiner suggest that the Chambers reference teaches the “audit data generator logic” or “audit data” set out in Applicants’ independent claims and incorporated in the above claims dependent thereon. As a result, the claimed aspects in the independent claims are not disclosed or rendered obvious in either the Chi or Chambers references. Should the Examiner believe that one or more of these recited structures or structural interrelationships is disclosed in the Chambers patent, he is respectfully requested to point out where such disclosure exists. Absent any such disclosure, there is simply no basis for rejecting dependent claims 2-5, 11, 12, 20-23, 29, 30, 38-41, 47 and 48 over the Chi/Chambers combination and any further rejection thereunder is respectfully traversed.

Claims 6-10, 24-28 and 42-46 stand rejected under 35 USC §103 as unpatentable over Chi in view of Christiano (U.S. Patent 5,671,412). Again, claims 6-10, 24-28 and 42-46 ultimately depend from independent claims 1, 19 and 37 and therefore the above comments distinguishing these claims over the Chi reference are herein incorporated by reference. The Examiner’s admission that “Chi does not teach the record of system usage to identify a request to execute a computer program” and the further admission that “Chi does not disclose expressly tracking concurrent usage logic operable to perform a concurrent usage check” are appreciated.

Because the Examiner does not allege that Christiano teaches the elements from Applicants’ independent claims that are missing from Chi, it is submitted that the combination of Chi and Christiano cannot teach the subject matter of Applicants’ independent claims 1, 19 and 37. As a result, if the independent claims are not obvious in view of the Chi/Christiano

combination, claims dependent thereon certainly cannot be, and any further rejection thereunder is respectfully traversed.

Claims 13, 14, 17, 18, 31, 32, 35, 36, 49, 50, 53 and 54 stand rejected as being obvious under 35 USC §103 over Chi in view of Hypponen (U.S. Patent 6,577,920). Again, these claims are dependent from independent claims 1, 19 and 37 and therefore the above comments distinguishing the Chi patent from the independent claims is herein incorporated by reference. The Examiner's admission that "Chi does not teach audit data generator logic is responsive to a non-user specified data space . . ." is very much appreciated.

The Examiner does not allege that the Hypponen reference fills in the missing teaching of the Chi reference with respect to the recitations contained in independent claims 1, 19 and 37. Accordingly, the above claims, dependent from independent claims 1, 19 and 37, cannot be obvious in view of the Chi/Hypponen combination. Should the Examiner contend that Hypponen does fill in the missing teaching, he is respectfully requested to identify the location of such teachings. Absent such indication, any further rejection of claims 13, 14, 17, 18, 31, 32, 35, 36, 49, 50, 53 and 54 over the Chi/Hypponen combination is respectfully traversed.

Claims 16, 34 and 52 stand rejected under 35 USC §103 as unpatentable over Chi in view of Bates (U.S. Patent 6,721,721). Again, because claims 16, 34 and 52 depend ultimately from claims 1, 19 and 37, the above comments distinguishing the independent claims from the Chi reference are herein incorporated by reference. The Examiner's admission that "Chi does not disclose expressly computer virus scan request results from an on-demand scan" is very much appreciated.

The Examiner does not suggest that Bates discloses the structures or method steps recited in claims 1, 19 and 37 which are previously identified as being missing from the Chi reference. Thus, neither Chi nor Bates contains a disclosure of these missing elements and therefore even if combined, these references cannot render obvious the subject matter of Applicants' independent claims or any claims dependent thereon.

Applicants enclose herewith newly written claims 55-57 which generally correspond to the subject matter of claims 6, 24 and 42, but redrafted in independent form. These newly submitted independent claims specify that concurrent usage logic is provided to perform a concurrent usage check using the request to execute a computer program associated with the virus scan. This feature and combination of features is not believed to be disclosed in either Chi or Christiano. Consideration of the patentability of these newly submitted independent claims I respectfully requested.

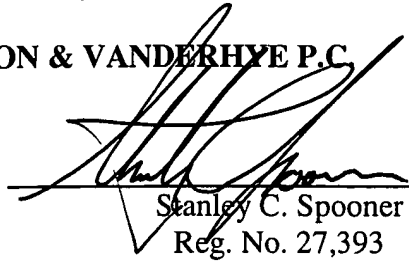
Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that claims 1-57 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants' undersigned representative.

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Respectfully submitted,

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